

Mail Stop Interference
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Paper 1
Filed 2 May 2008

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

EDWARD L. **TOBINICK**,
and ARTHUR JEROME TOBINICK,
Junior Party
(Patent 6,015,557),

v.

JUNMING LE,
JAN VILCEK, PETER DADDONA,
JOHN GHAYEB, DAVID KNIGHT, and SCOTT SIEGEL,
Senior Party
(Applications 10/227,488 and 10/665,971)

Patent Interference No. 105,621
(Technology Center 1600)

DECLARATION - Bd.R. 203(b)¹

Part A. Declaration of interference

An interference is declared (35 U.S.C. ' 135(a)) between the above-identified parties. Details of the application(s), patent (if any), reissue application (if any), count(s) and claims designated as corresponding or as not corresponding to the count(s) appear in Parts E and F of this DECLARATION.

¹ "Bd.R. x" may be used as shorthand for "37 C.F.R. ' 41.x". 69 Fed. Reg. 49960, 49961 (12 Aug. 2004).

1 **Part B. Judge managing the interference**

2 Administrative Patent Judge Sally Gardner Lane has been designated to manage
3 the interference. Bd. R. 104(a).

4 **Part C. Standing order**

5 A Trial Section STANDING ORDER [SO] (Paper 2) accompanies this
6 DECLARATION. The STANDING ORDER applies to this interference.

7 **Part D. Initial conference call**

8 A telephone conference call to discuss the interference is set for **2:00 p.m. on 8**
9 **July 2008** (the Board will initiate the call).

10 No later than **four business days** prior to the conference call, each party shall
11 file and serve (SO && 10.1 & 105) a list of the motions (Bd. R. 120; Bd. R. 204;
12 SO && 104.2.1, 120 & 204) the party intends to file.

13 A sample schedule for taking action during the motion phase appears as Form 2
14 in the STANDING ORDER. Counsel are encouraged to discuss the schedule prior to
15 the conference call and to agree on dates for taking action. A typical motion period
16 lasts approximately eight (8) months. Counsel should be prepared to justify any request
17 for a shorter or longer period.

Part E. Identification and order of the parties

Junior Party

Named inventors: EDWARD L. TOBINICK, LOS ANGELES, CA;
ARTHUR JEROME TOBINICK, LOS ANGELES, CA;

Involved Patent: 6,015,557, issued on 18 January 2000 from
application 09/275,070, filed 23 March 1999

Title: TUMOR NECROSIS FACTOR ANTAGONISTS FOR
THE TREATMENT OF NEUROLOGICAL
DISORDERS

Assignee: None of record

Senior Party

Named Inventors: JUNMING LE, JACKSON HEIGHTS, NY;
JAN VILCEK, NEW YORK, NY;
PETER DADDONA, MENLO PARK, CA;
JOHN GHRAYEB, DOWNINGTOWN, PA;
DAVID KNIGHT, BERWYN, PA;
SCOTT SIEGEL, WESTBOROUGH, MA;

Involved Application: 10/227,488 ('488), filed 23 August 2002

Title: METHODS OF TREATING INFLAMMATION
ASSOCIATED WITH NEUROGENERATIVE DISEASES
WITH ANTI-TNF α ANTIBODIES

Involved Application: 10/665,971 ('971), filed 19 September 2003

Title: METHOD OF TREATING NEURODEGENERATIVE
INFLAMMATION WITH ANTI-TNF ALPHA ANTIBODIES

Assignee: None of record

1 The senior party is assigned exhibit numbers 1001-1999. The junior party is
2 assigned exhibit numbers 2001-2999. Bd. R. 154(c)(1); SO & 154.2.1. The senior party
3 is responsible for initiating settlement discussions. SO & 126.1.

4
5 **Part F. Count and claims of the parties**

6 Count 1

7 Claim 1 of Tobinick (6,015,557) or claim 3 of Le (10/227,488) or claims 1 of Le
8 (10/665,971).

9 The claims of the parties are:

10 Tobinick: 1-47

11 Le '488: 4, 7-10, 32, 33, 37, 53-58, 60-65, 85, 87, and 88

12 Le '971: 1-3, 34, and 35

13 The claims of the parties which correspond to Count 1, and therefore are
14 involved in the interference, are:

15 Tobinick: 1-3, 13, 14, 17-26

16 Le '488: 4, 7-10, 32, 33, 37, 53-58, 60-65, 85, 87, and 88

17 Le '971: 1-3, 34, and 35

18 The claims of the parties which do not correspond to Count 1, and therefore are
19 not involved in the interference, are:

1 Tobinick: 4-12, 15, 16, 27-47

2 Le '488: None

3 Le '971: None

4 The parties are accorded the following benefit for Count 1:

5 Tobinick: US 09/256,388, filed 02/24/1999

6

7 Le: US 09/756,398, filed 01/08/2001, now PAT 6,835,823

8 US 09/766, 535, filed 01/18/2001, now PAT 6,991,791

9 US 09/133,119, filed 08/12/1998, now PAT 6,277,969²

10 US08/570,674, filed 12/11/1995

11 US 08/324,799, filed 10/18/1994, now PAT 5,698,195

12 US 08/192,102, filed 02/04/1994, now PAT 5,656,272

13 US 08/192,861, filed 02/04/1994, now PAT 5,919,452

14 US 08/192,093, filed 02/04/1994, now PAT 6,284,471

15 US 08/010,406, filed 01/29/1993

16 US 08/013,413, filed 02/02/1993

17 US 07/943,852, filed 09/11/1992

18 US 07/853,606, filed 03/18/1992

19 US 07/670,827, filed 03/18/1991

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² According to USPTO records: (1) the involved '488 application is a continuation of 09/766,535 (535); (2) the involved '971 application is a divisional of 09/756,398 (398), and (3) the '535 and '398 applications are both divisional of 09/133,119.

1 **Part G. Heading to be used on papers**

2 The following heading must be used on all papers filed in this interference, see
3 SO & 106.1.1:

4 UNITED STATES PATENT AND TRADEMARK OFFICE
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6 _____

7
8 BEFORE THE BOARD OF PATENT APPEALS
9 AND INTERFERENCES
10 _____

11
12 EDWARD L. **TOBINICK**,
13 and ARTHUR JEROME TOBINICK,
14 Junior Party
15 (Patent 6,015,557),
16

17 v.
18

19 JUNMING LE,
20 JAN VILCEK, PETER DADDONA,
21 JOHN GHAYEB, DAVID KNIGHT, and SCOTT SIEGEL,
22 Senior Party
23 (Applications 10/227,488 and 10/665,971).
24

25 _____

26 Patent Interference No. 105,621

27 (Technology Center 1600)
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33 **Part H. Order form for requesting file copies**

34 When requesting copies of files, use of SO Form 4 will greatly expedite
35
36 processing of the request. Please attach a copy of Parts E and F of this
37 DECLARATION with a hand-drawn circle around the patents and applications for which
38 a copy of a file wrapper is requested.
39
40

1 /Sally Gardner Lane/
2 Administrative Patent Judge
3
4

5 Enc:

6 Copy of STANDING ORDER
7 Copy of U.S. Patent 6,015,557
8 Copy of claims of 10/227,588 and 10/665,971
9

10 Revised 3 January 2006
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12

13 cc (via overnight delivery):
14

15
16 Attorney for TOBINICK:

17
18 EZRA SUTTON, P.A.
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